

No. _____

In the Supreme Court of Texas

RECEIVED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS
3/29/2021 11:29:21 PM
JEFFREY D. KYLE
Clerk

Mary Louise Serafine v. Alexander Blunt et al.
&
Mary Louise Serafine v. Karin Crump et al.

From the Third Court of Appeals
Case No. 03-20-294-CV & Case No. 03-21-53-CV

APPELLANT'S REQUEST RE ABATEMENT AND MOTIONS

IN CONNECTION WITH

**MOTION TO TRANSFER CASE NO. 03-20-294-CV TO TEXARKANA
&
MOTION TO TRANSFER CASE NO. 03-21-53-CV TO BEAUMONT**

TO THE HONORABLE SUPREME COURT OF TEXAS:

Because time is of the essence for the reasons below, Appellant respectfully asks for expedited consideration of this Request, particularly to abate the cases before their briefing deadlines come due.

Pending before the Supreme Court are motions on behalf of Appellant Mary Louise Serafine to transfer—from the Austin Court to other courts of appeals—the two related cases shown above. *See* Gov't. Code §73.001. Appellant wishes to ask the Supreme Court:

1. to abate both cases while the Supreme Court is considering the transfer; and
2. to vacate the Austin Court’s decisions on two motions, reserving the motions for decision by a neutral court—should the Supreme Court decide to grant the transfer.

As before, this Request is filed in the Austin Court, then forwarded to the Supreme Court, with courtesy copies to the intended transferee courts. *See* Certificate of Service.

Briefly stated, the cases should be abated so that briefing is not short-changed by impending deadlines and the parties know what court they are addressing.

Second, the Austin Court’s decisions on two motions impacting the record should be vacated and reserved to a neutral court for the same reason as the transfer itself—because half or more of the Austin justices are disqualified or have recused. *See Winningham v. City of Fort Worth*, No. 02-13-00318-CV (Tex. App.—Fort Worth Oct. 2, 2013) (“all seven justices on [the] court recuse[d] themselves from participating in this appeal,” where only the chief justice and the clerk were disqualified in official capacity).

The Supreme Court has broad authority to grant this relief. The Supreme Court’s constitutional obligation is expressed in Government Code Section

74.021, which provides that “[t]he supreme court has supervisory...control over the judicial branch and is responsible for the orderly and efficient administration of justice.” The Court has “inherent power to protect and preserve the proper administration of the judicial system.” *In re Castillo*, 201 S.W.3d 682, 684 (Tex. 2006) (citations omitted). *See also O'Connor v. First Court of Appeals*, 837 S.W.2d 94, 95 (Tex. 1992). Ensuring a neutral tribunal is central to justice.

The cases should be abated. Appellant moved in the transferor court about three weeks ago to stay or abate Case No. 03-20-294-CV until resolution of the motion to transfer; however that motion has not been decided.¹ Now, however, briefing deadlines in both cases are approaching that are nearly simultaneous²—April 21, 2021 in one case and April 19, 2021 in the other.³ The parties should know whom they are addressing—whether the Third Court, whom the parties agree is at least partly disqualified, or another court.

¹ *See Appellant’s Opposed Motion to Stay or Abate*, filed in the Third Court on March 9, 2021. No comparable motion was filed in the related case, No. 03-21-53-CV, because there were no briefing deadlines at that time.

² Here, in Case No. 03-20-294-CV, opening briefs of Appellant and Cross-Appellants are due in about three weeks on April 21, 2021. Two days prior to that, on April 19, 2021, Appellant’s brief is due in the other case, No. 03-21-53-CV.

³ In Case No. 03-21-53-CV, the reporter’s record is due and expected to be filed on March 29, 2021. Appellant’s brief is due 20 days later. Tex. R. App. P. 38.6(a). The 20th day being Sunday, April 18th, the deadline is the next day, Monday the 19th.

The parties will also need to brief how “the transferee court must generally resolve any conflict between the precedent of the transferor court and the precedent of the transferee court...,” and so must know who the court is. Tex. R. App. P. 43.1, Comment to 2008 Change.

A case may be abated while the Supreme Court considers a transfer. *In re S.M.R.*, No. 05-15-00214-CV (Tex. App.—Dallas Mar. 10, 2015) (abating appeal pending disposition of motion to transfer).

In 03-20-94-CV, the Court should vacate the Austin Court’s two recent decisions—made after the disqualifying events—and reserve them for a neutral, transferee court. Appellant urges that the cases in question should be transferred out of the Austin Court because of events that occurred in **December, 2020**—that is, what Appellant alleges was a fraudulent use of the “vexatious litigant” statute against Appellant by Justice Goodwin (and two former justices, now succeeded in official capacity)—and an event in **January, 2021**—that is, Chief Justice Byrne’s arrival at the Austin Court. *See* motion to transfer at 3-4.⁴ Nevertheless, after these disqualifying events occurred, the Austin Court decided two motions adversely to Appellant. (They were also wrongly decided, but Appellant refrains

⁴ *See* Appellant’s Verified Motion to Transfer Case No. 03-20-294-CV to the Texarkana Court of Appeals, filed in the Austin Court on March 2, 2021.

from arguing merits here.) On March 23, 2021—while the motion to transfer remained before the Supreme Court—the Austin Court denied the crucial part of Appellant’s motion to correct the record, filed on January 27, 2021. Earlier, on January 19, 2021, the Austin Court denied Appellant’s motion filed two days earlier to place a formal bill of exceptions in the record.

Both of these decisions should be vacated by the Supreme Court and reserved for decision to the Texarkana Court of Appeals, if the Court decides to grant the transfer. Both decisions concern the appellate record. They are therefore determinative of the outcome. It is equally important that the record—as well as the final decision—be determined by a neutral court.⁵

CONCLUSION

For the above reasons, the Supreme Court—while it is considering Appellant’s transfer requests—should abate the cases in the Austin Court numbered 03-20-294-CV and 03-21-53-CV.

The Court should also, in Case No. 03-20-94-CV, vacate (1) the Austin Court’s decision of January 19, 2021 on Appellant’s Motion to Place Formal Bill of Exceptions in the Appellate Record, and (2) the Austin Court’s partial denial of

⁵ Appellant had urged before the Austin Court that the record was “defective” and should be left for decision, if any, in “the transferee court.” *See* Motion to stay or abate at 1, filed Mar. 9, 2021.

March 23, 2021 concerning Appellant's Motion to Correct and Supplement the Record. Instead, those motions could be reserved to the transferee court, if the Court decides to grant the transfer.

Respectfully submitted,

John W. Vinson,
Counsel of Record
State Bar No. 20590010
John W. Vinson, PLC
PO Box 301678
Austin, TX 78703
Tel: (512) 926-7380
Email: johnvinsonatty@yahoo.com

Mary Louise Serafine
State Bar No. 24048301
Mary Louise Serafine,
Attorney & Counselor at Law
P.O. Box 4342
Austin, Texas 78765
Tel: (512) 220-5452
Email: serafine@mlserafine.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that this document was filed in the Third Court of Appeals on March 29, 2021 in both cases, No. 03-20-294-CV and No. 03-21-53-CV. It was also served on those below via email or the court's electronic filing system.

Ms. Haley Marlow, clerk, Supreme Court of Texas
Chief Justice Josh R. Morriss, III
The Honorable Debra K. Autrey
Chief Justice W. Scott Golemon
The Honorable Carly Latiolais
The Honorable Jeffrey D. Kyle

Anthony J. Nelson, Esq., tony.nelson@traviscountytexas.gov
Patrick T. Pope, Esq., patrick.pope@traviscountytexas.gov
Office of David A. Escamilla, Travis County Attorney
P. O. Box 1748, Austin, Texas 78767
(512) 854-9415/ Fax (512) 854-4808
Attorneys for Appellee the Hon. Karin Crump

Courtney Corbello, Esq., courtney.corbello@oag.texas.gov
Law Enforcement Defense Division, Office of the Attorney General
P.O. Box 12548, Capitol Station, Austin, Texas 78711
(512) 463-2080 / Fax (512) 370-9374
*Attorney for Appellees the Hon. Melissa Goodwin,
the Hon. Bob Pemberton, and the Hon. David Puryear*

Ronald Max Raydon, Esq.
The Raydon Firm, LLC
Two Riverway, Suite 845, Houston, Texas 77056
Attorney For Scott Lockhart and Austin Drainage & Foundation, LLC

Jeff D. Otto, Esq.,
Thompson, Coe, Cousins & Irons, L.L.P.
701 Brazos, # 1500, Austin, Texas 78701
*Attorneys for Viking Fence Company, Ltd., Viking GP, LLC.,
Salvatore Chavarria, Jennifer Chavarria, and James Clanin*

Amanda G. Taylor, Esq.
Butler Snow LLP
1400 Lavaca Street, Suite 1000
Austin, TX 78701
Attorney for Appellees/Cross-Appellants Alexander Blunt and Ashley Blunt

/s/ Mary Lou Serafine
Mary Louise Serafine
State Bar No. 24048301

CERTIFICATE OF CONFERENCE

On March 29, 2021 I contacted opposing counsel by email. In Case No. 03-20-294, the Blunts are the only active parties. They are opposed. In Case No. 03-21-53, counsel for Judge Crump and the Justices either did not respond or did not respond appropriately by the time this document was filed.

/s/ Mary Lou Serafine
Mary Louise Serafine
State Bar No. 24048301

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Serafine on behalf of Mary Serafine
Bar No. 24048301
serafine@mlserafine.com
Envelope ID: 51948910
Status as of 3/30/2021 8:19 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Courtney Corbello	24097533	courtney.corbello@oag.texas.gov	3/29/2021 11:29:21 PM	SENT
Anthony J. Nelson	14885800	tony.nelson@traviscountytexas.gov	3/29/2021 11:29:21 PM	SENT
John Willis Vinson	20590010	johnvinsonatty@yahoo.com	3/29/2021 11:29:21 PM	SENT
Patrick Pope	24079151	patrick.pope@traviscountytexas.gov	3/29/2021 11:29:21 PM	SENT
Mary Louise Serafine		serafine@mlserafine.com	3/29/2021 11:29:21 PM	SENT